SIKKIM

GOVERNMENT GAZETTE

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FINANC, REVENUE AND EXPENDITURE DEPARTMENT
INCOME TAX AND COMMERCIAL TAX DIVISION
GOVERNMENT OF SIKKIM

No. 118/IT & CT/2007 **Dated:21/03/2007.**

NOTIFICATION

In exercise of the powers conferred by section 22 and of all other powers enabling it in this behalf under the Sikkim Ecology Fund and Environment Cess Act, 2005 (1 of 2005), the State Government hereby makes the following rules, namely:-

Short title, extent and commencement

1. (1) These rules may be called the Sikkim Ecology Fund and Environment Cess Rules, 2007.
(2) They shall extend to the whole of Sikkim.
(3) They shall come in to force on the date of their publication in the official Gazette.

Definitions

2. (1) In these rules, unless there is anything repugnant in the subject or context,-
(a) "Act" means the Sikkim Ecology Fund and Environment Cess Act, 2005;
(b) "assessing authority" means, in respect of any particular dealer, the person who has been prescribed as the authority competent to make assessment or reassessment of cess or to impose penalty or interest.;
(c) "Bank" means any branch or the Head Office of the State Bank of Sikkim and will include any branch or head office of any other bank authorized to transact business of the Government of Sikkim;
(d) "Commissioner" means Commissioner of Cess.
(e) "Form" means forms appended to these rules;
(f) "month" means calendar month;
(g) "quarter" means a quarter ending on 30th June, 30th September, 31st December and 31st March of a year;
(h) "section" or "sub-section" means the section or sub-section of the Act;
(2) Words and expressions used in these rules and not defined but defined in the Act shall have the meaning respectively assigned to them in the Act.

Prescribed authority, superintendence, control and delegation of powers

3. (1) The Additional Chief Secretary in-charge of the Finance, Revenue and Expenditure Department of the State Government shall be the prescribed authority to carry out the provisions of the Act who shall be designated as Commissioner of Cess:

Provided that the State Government may appoint by notification, any other person, at any time, to be the prescribed authority as Commissioner of Cess if it deems necessary to do so.

(2) The Commissioner of Cess shall superintend the administration and collection of cess leviable under this Act and shall have control over cess authorities appointed to assist him.

(3) For the purpose of administration of the Act, the State may be divided into such numbers of divisions as it is deemed appropriate and such divisions shall be headed by such officer and he shall be assisted by such other officers as the Commissioner specifies in a general or a special order issued in this behalf.

(4) Without prejudice to provisions of sub-rule (2), the Commissioner may by general or special order, delegate any of the powers conferred on him by or under the Act except such power which has been exclusively vested on him.

Authorities to assist the Commissioner

4. The officers with designation as mentioned in column 1 of the Table below of the Income and Commercial Tax Division, Finance, Revenue and Expenditure Department, shall be the officers/authorities of the rank and designation as mentioned in column 2 of the said Table, under the Act to assist the Commissioner for the purpose of sub-section (1) of section 4:-

TABLE

1	2
Special Commissioner of Commercial Taxes/ Special Commissioner/ Special Secretary of Income Tax	Special Commissioner of Cess
Additional Commissioner of Commercial Taxes/ Additional Commissioner/Additional Secretary of Income Tax	Additional Commissioner Cess
Joint Commissioners of Commercial Taxes/ Joint Commissioners/Joint Secretaries of Income Tax	Joint Commissioners of Cess
Deputy Commissioners of Commercial Taxes/ Senior Income Tax Officers/Deputy	Deputy Commissioners of Cess

Commissioners of Income Tax	
Assistant Commissioners of Commercial Taxes/Income Tax Officers/Under Secretaries of Income Tax	Assistant Commissioners of Cess
Inspectors of Commercial Taxes/Income Tax Inspectors	Inspectors of Cess

Delegation of powers and prescribed authorities

5. (1) Subject to sub-rule (4) of rule 3, the authorities who are designated as such under rule 4 of these rules, specified in column 4 of the Table below shall be the prescribed authorities for the purpose of the sections of the Act specified in column 2 of the said Table and exercise such powers as are specified in column 3 of the Table aforesaid:-

THE TABLE

Sl no.	Section	Description of Power	Designation of the prescribed authority
1	2	3	4
1.	Section 8	To grant registration to a dealer.	Assistant Commissioner, Deputy Commissioner.
2.	Section 9	To accept or reject returns and revised returns and to levy penalty for delay in filing returns.	Assistant Commissioner, Deputy Commissioner.
3.	Section 10	To make assessment or re-assessment of cess or to impose penalty or interest.	Assisstant Commissioner, Deputy Commissioner, Joint Commissioner.
4.	Section 11	To demand payment of cess, penalty or interest due under the Act and to initiate proceedings for recovery thereof.	Assisstant Commissioner, Deputy Commissioner, Joint Commissioner.
5	Section 18	To entertain and dispose of appeals against orders passed by Assisstant Commissioner and Deputy Commissioner.	Joint Commissioner.
6.	Section 18	To entertain and dispose of appeals against orders passed by Joint Commissioner.	Additional Commissioner, Special Commissioner.
7.	sub-section (2) of Section 20	To sanction prosecution for offences.	Commissioner.
8.	sub-section (4) of Section 20	To compound any offence.	Commissioner or Special Commissioner.

(2) Notwithstanding anything contained in sub-rule (1) of this rule, the Commissioner may, by order vest in the officers mentioned in rule 4 all or any of the powers mentioned in column 2 of the above Table.

Registration of dealers

6. (1) An application under sub-section (1) of section 8 of the Act shall be made separately in **Form I** in respect of every place of business from where goods are sold or supplied:

Provided that, a dealer having more than one place of business in the State may, with the permission of the Joint Commissioner of Cess, make a single application for registration of all such places of business.

(2) Every application for registration shall be,-

(a) signed by the proprietor of the business, or in the case of firm, by the partner authorized to act on behalf of the firm, or in the case of the business of an Undivided Hindu Family by the Karta of the family or in case of the company incorporated under the Indian Companies Act,1956 or the Sikkim Registration of Companies Act,1961 or a corporation, by a managing director, manager, managing agent or principal executive officer thereof, or in the case of a department of the Government or local authority by the executive officer, or officer in charge of such Department of Government or local authority, as the case may be;

(b) verified in the manner specified in the said Form; and,

(c) accompanied by a challan showing the payment in Bank a fee of rupees two hundred only for each application.

(3) An application for registration shall be made before the concerned prescribed authority/assessing authority having jurisdiction over the place of business of the dealer:

Provided that application of the dealer mentioned in proviso to sub-rule (1) shall be made to such authority as may be authorized by the Joint Commissioner for the purpose.

(4) On receipt of an application for registration, the authority referred to in sub-rule (3) shall, after verification of the particulars furnished by the

applicant, grant him a registration certificate in **Form II;**

(5) The authority referred to in sub-rule (3) of this rule shall assign a number and also the appropriate alphabetical symbol as identification code, to each registration certificate.

(6) If a registration certificate granted under these rules is lost, destroyed or defaced, the dealer shall forthwith apply to the authority referred in sub-rule (3) for the grant of a duplicate copy of such certificate. The said authority shall, after verification as may be necessary and on payment of fee of rupees two hundred deposited in the Bank for credit to the State Government, issue to the dealer a copy of the original certificate, after stamping thereon the words "Duplicate copy".

(7) All hotels, resorts, lodges, motels and restaurants having an annual turnover of not exceeding rupees two lakhs shall be exempted under proviso to clause (c) of section 5 of the Act from payment of cess and need not be registered.

Provided that the dealers eligible for exemption shall furnish information in writing, to the concerned prescribed authority/assessing authority stating turnover of his business of every financial year, within three months from the end of such year.

Provided further that the concerned prescribed authority/assessing authority may make necessary verifications to establish the eligibility of a dealer for exemption.

Returns

7. (1) Every registered dealer shall furnish to the concerned prescribed authority/assessing authority, having jurisdiction over his place of business, returns in **Form III** for each quarter, within thirty days from the end of each such quarter to which the returns relates:

Provided that the Commissioner or an officer authorized in this behalf may, by order in writing and subject to such conditions or restrictions as may be specified in the order, permit a registered dealer to furnish an annual return in such Form and manner as may be directed by the Commissioner in this behalf or by the authorized officer:

Provided further that such permission may be

refused, modified or annulled by the Commissioner or the authorized officer, after giving the dealer a reasonable opportunity of being heard.

(2) A dealer having more than one place of business for which a single registration has been granted may file a single return covering all such places of business.

(3) Every dealer liable to pay cess as per provisions of clauses (a) or (c) or (e), as the case may be, of section 5, and on the turnover and at the rates as specified in clauses (a) or (b), as the case may be, of sub-section (1) of section 6 of the Act, and required to file return under the Act and these rules shall remit such cess on monthly basis within fifteen days from the end of every month to which the cess relates, and a copy of receipted challan shall be furnished alongwith the returns as proof of payment of cess.

(4)(a) Subject to clause (b) of this sub-rule, a dealer, other than the dealer as specified in sub-rule (7) of rule 6 of these rules, whose annual turnover does not exceed rupees two lakhs, may opt to pay a composite cess of rupees one thousand per annum:

Provided that such dealer shall make an application to the concerned prescribed authority/assessing authority stating his intention to pay composite cess:

Provided further that the concerned prescribed authority/assessing authority may make necessary verifications to establish the eligibility of a dealer for payment of composite cess.

(b) A dealer who exercised option to pay composite cess as referred to in clause (a), shall furnish quarterly statement in **Form III A** within thirty days from the end of a quarter to which the payment relates, alongwith a copy of receipted challan of an amount equivalent to one-fourth of the annual composite cess, as proof of payment.

Notice of hearing 8. The notices referred to in sub-section (4) of Section 8, sub-section (3) of section 9, clause (a) of sub-section (2) of section 10, sub-section (3) of section 10, sub-section (4) of section 10 of the Act shall be in **Form IV.** Every such notice shall give not less than fifteen days time for its compliance counted from the date of service thereof.

Reasonable opportunity

9. Where under any section of the Act or these rules, a reasonable opportunity is required to be given to any person to show cause against any action proposed to be taken or any penalty proposed to be imposed, it shall be sufficient if a memorandum in writing containing a gist of the allegations or accusations against the said person is served upon him and he is given a period of not less than fifteen days time from the date of service to represent against the action, order or penalty, as the case may be.

Notice of Demand

10. A notice referred to in sub-section (2) or sub-section (3) of Section 11 of the Act shall be in **Form V** and shall be accompanied by the order of the assessment of cess or imposition of penalty or interest, as the case may be:

Provided that if the demand in any period is nil, a copy of the order of assessment shall even then, be served on the dealer.

Payment of cess, penalty or interest

11. (1) The amount of cess, penalty or interest payable by the dealer under any section of the Act shall be paid into the Bank by a challan in **Form VI** for credit to the account of the State Government or by such challan and in such manner as prescribed under the standing Financial Rules of the State Government.

(2) The challan of payment may be obtained from the Bank or from the office of the prescribed authority having jurisdiction in the area of business of the dealer.

(3) The challan shall be in quadruplicate and all copies shall be duly received by the Bank with its seal and signature. Two copies of the challan shall be returned to the depositor by the Bank and one of these shall be submitted by the dealer to the concerned prescribed/assessing authority as a proof of payment. The third copy shall be retained by the Bank. The fourth copy shall be sent to the concerned prescribed/assessing authority by the Bank for reconciliation of the amount received as revenue on a monthly basis.

Refund of excess amount paid

12. (1) Whenever, any payment has been made by the dealer in excess of the due or his fee for appeal or revision is to be paid back as determined by the assessing,

appellate or the revision authority, the same shall be ordered to be refunded to him on his application in **Form VII** or suo motu by said authority:

Provided that any dealer may, by application request, or the concerned prescribed authority may, on its own motion, set off the refund due against any other dues of the dealer under this Act or under any other Act:

Provided further that the concerned authority shall record in writing the reasons of refund and shall also issue to the applicant a refund payment order/certificate in **Form VII A**, or as the case may be, an order/certificate in **Form VII B** adjusting the amount of refund towards any other dues of the dealer under this Act or under any other Act.

(2) Subject to the provisions of the Act and these rules, the payment of excess cess or fees or interest or penalty, as the case may be, ascertained and ordered to be refunded shall be made through cheque or draft as per the standing financial rules of the State Government.

Maintenance, production and inspection of accounts, registers, documents etc.

13. (1) Every registered dealer shall keep a true and complete account in respect of all goods liable for cess under the Act, sold or delivered in the course of carrying on his business.

(2) All accounts, registers and documents relating to the business of the dealer, including the cash or other sale memoranda, and counterfoils of all declarations issued shall be preserved by him for a period of not less than six years but if proceedings in relation to any previous years are pending, the records of those years shall also be preserved till the conclusion of those proceedings.

(3) Every registered dealer shall produce all or any of the accounts, registers and documents maintained by him and also shall furnish information relating to financial transactions relating to his business including information regarding stocks of goods held, sold, purchased or delivered, the sale price realized, when concerned prescribed authority/assessing authority requires him to do so, either before or after the assessment of cess.

(4) All accounts and documents connected with the

business of a dealer, stocks of goods, cash or bank pass books shall at all reasonable times, be open to inspection by the prescribed authority/assessing authority or any officer authorized by him in writing in this behalf, at the premises of business and the dealer shall render all possible assistance to such authority in the inspection.

(5) The prescribed authority or an authorized officer referred to in sub-rule (4) of these rules may take or cause to be taken such copies of, or extracts from the aforesaid accounts, registers and documents as may be considered by him necessary and require the dealer or any of his employees present at the time of inspection, to authenticate or witness such copies or extracts, as the case may be.

Memorandum of appeal

14. An appeal under sub-section (1) of section 18 shall-

(a) be in **Form VIII** filed in duplicate,

(b) be presented to the appellate authority specified at serial no. 5 and 6 of the Table under sub rule (1) of rule 5, either by the dealer or by the person in-charge of business or by his authorized representative,

(c) contain a clear statement of facts, the grounds of appeal and the relief claimed,

(d) be accompanied by –

(i) a certified copy of the order appealed against and a true copy or a duly attested photostat copy of the notice of the demand, if any, served on the appellant;

(ii) a duly receipted challan of the Bank showing the deposit of the amount mentioned in sub-section (2) of section 18:

Provided that in any particular case, the appellate authority may dispense with the requirement of such payment if it is of the opinion that such requirement will cause undue hardship to appellant,

(iii) a duly receipted chalan of the Bank, showing the payment of fee prescribed for appeal in rule 17, and

(e) be signed and verified in the manner prescribed in **Form VIII.**

Revisional authorities, memorandum of

15. (1) Any order passed in appeal may, on application being made in this behalf, be revised by-

(a) the Additional Commissioner of Cess, if the

revision and limitation for filing appeal and revision application

order is passed by the Joint Commissioner of Cess;

(b) Special Commissioner of Cess, if the order is passed by the Additional Commissioner of Cess, and

(c) The Commissioner of Cess, if the order is passed by the Special Commissioner of Cess.

(2) The Commissioner of Cess may, on his own motion, revise any order passed by any authority sub-ordinate to him:

Provided that no action under these rules shall be initiated while any appeal or revision is pending under the sub-ordinate appellate authority or revisional authority, as the case may be, or when the time prescribed for filing such appeal or revision has not expired, and except before the expiry of three years from the date of order which is the subject of revision by the Commissioner.

(3) An application for revision shall,-

(a) be in **Form IX** filed in duplicate,

(b) be presented to the revisional authority specified in sub-rule (1) of rule 15, either by the dealer or by the person in-charge of business or by his authorized representative,

(c) contain a clear statement of facts, the grounds of revision and the relief claimed,

(d) be accompanied by, –

(i) a certified copy of the order against which revision application is made and a true copy or a duly attested photostat copy of the notice of the demand, if any, served on the appellant,

(ii) a duly receipted challan of the Bank showing the deposit of the amount mentioned in sub-section (2) of section 18:

Provided that in any particular case, the revisional authority may dispense with the requirement of such payment if it is of opinion that such requirement will cause undue hardship to applicant,

(iii) a duly receipted chalan of the Bank showing the payment of fee prescribed for revision under rule 17, and

(d) be signed and verified in the manner prescribed in **Form IX.**

(4) No appeal or application for revision shall be entertained after the expiry of forty-five days from the date of receipt of notice of demand or receipt of the order, as the case may be:

Provided that the appellate authority or the revisional authority, as the case may be, may admit the appeal or application for revision after the expiry of the aforesaid period, if it is satisfied that there was sufficient cause for the delay.

Disposal of appeal and revision application

16. (1) If any appeal or application for revision, as the case may be, does not conform to the provisions of rule 14 or rule 15 or is barred by the time or beyond the jurisdiction of the authority before whom it is filed, the appellate or the revision authority, as the case may be, may reject it summarily:

Provided that the reasons recorded for summary rejections shall be communicated to the appellant.

(2) Where an appeal or revision application, as the case may be, is admitted for hearing on its merit, the appellate or revisional authority, after giving a reasonable opportunity of being heard to the parties concerned, fix a date for passing the order in the case if the order is not passed on the date of hearing.

(3) Where any of the parties fail to appear on the date fixed for the hearing, the appellate authority or the revisional authority, as the case may be, may, on its discretion, either adjourn the hearing to a later date or dispose of the appeal on the basis of the materials available to it in the record:

Provided that the adjournment of the hearing under this sub-rule shall not require the issue of service of any further notice on the parties concerned.

(4) The appellate authority or the revisional authority, as the case may be, shall not enhance an assessment of cess or penalty or interest unless the dealer has been given a reasonable opportunity of showing cause against such enhancement.

Fees

17. (1) The following fees shall be payable in respect of any appeal or application made under the Act, namely,:-

(a)	on memorandum of appeal made under rule 14,	two percent of the amount in dispute subject

		to a minimum of rupees five hundred and a maximum of rupees five thousand,
(b)	on memorandum of revision made under rule 15,	two percent of the amount in dispute subject to a minimum of rupees one thousand and a maximum of rupees ten thousand, and
(c)	on any other application,	rupees two hundred.

(2) Applications for grant of certified copies of any order shall be charged for at a flat rate of rupees fifty per page or part thereof.

(3) Payment of fees under clauses (a), (b), and (c) of sub-rule (1) of this rule shall be made to the Bank and the challan in proof of the payment shall be produced to the concerned prescribed authority/assessing authority.

Compounding of offences

18. (1) When the Commissioner or the Special Commissioner of Cess decides under sub-section (4) of section 20 to accept any sum determined as per said sub-section and section, from any person by way of compounding of any offence, he shall issue an order directing the person to deposit in to Bank, the amount of compounded money by the date mentioned therein and to produce before such authority as may be specified in the order, a copy of receipted challan showing payment of such amount. A copy of the order shall be sent simultaneously to the said authority.

(2) On receipt of the order the person shall comply with all the terms thereof, failing which the order of compounding shall stand cancelled.

Deduction of cess at source from payment of dealer

19. (1) The Drawing and Disbursing Officer or the Pay and Accounts Officer or any other paying authority, as the case may be, of the State or Central Government

including department of other States, situated in Sikkim, any local body, any authority or corporation, established by or under any statute and any State or Central Government undertaking shall, at the time of payment of any sum to any registered dealer deduct from such payment cess at source on the turnover value to be determined as per clause (a) of section 5 of the Act read with clauses (a) or (b), as the case may be, of sub-section (1) of section 6, payable by such dealer on account of goods sold or supplied to such Government Department, local body, authority, corporation or State or Central Government undertaking, when such goods are liable for cess under the Act, at the rate or rates specified in section 6:

Provided that no deduction of cess shall be made in cases where a dealer or a class of dealer is exempted from payment of such cess or allowed to pay compounded cess.

(2) Any authority referred to in sub-rule (1) of this rule, who is responsible for making payments shall, immediately after deduction is made issue a certificate thereof containing the details of payments made to the dealer and deductions of cess, to the dealer and a copy thereof to the concerned prescribed authority.

(3) The amount of cess deducted at source shall be remitted to the credit of the State Government within fifteen days from the date of making of deduction through the challan or document of book adjustment prescribed under the financial rules of the State Government.

Check Posts

20. (1) The Check Posts set up under the Commercial Tax Division of the Finance, Revenue and Expenditure Department of the State Government shall be deemed to be the Check Posts set up under the Act, and the authorities of all ranks and designations appointed and posted at such Check Posts shall be the authorities of the same ranks and designations they hold, for the purposes of the Act.

(2) When any authority referred to in sub-rule (1) of this rule, while on duty has reason to believe that any vehicle or any means of transportation of goods is being used for evasion of cess payable under the Act,

may stop, enter and search such vehicle or means of transportation of goods and inspect all goods and documents concerning the goods, which are being carried on such vehicle. In carrying out such search or inspection the said authority may take the assistance of any other authority or a police officer or other Government servant. The person for the time being in-charge of the goods or vehicle or means of transportation of goods, shall forthwith furnish such particulars of the goods and vehicle as may be required and shall render all possible help to the authority and to the person assisting it in making search or inspection. The said authority may make such endorsement on the documents relating to the goods inspected or searched as it may deem fit.

Explanation:-
In this sub-rule, "documents" mean-
Way bill or any other Form referred to in sub-rule (6) of this rule, consignment note, bill, invoice, road challan or any other document of the like nature.

(3) On being satisfied that the vehicle or any means of transportation of goods is used for evading cess, the said authority shall detain the vehicle or means of transportation of goods, and shall not release unless an amount equivalent to the cess payable against the detained goods are paid as per provisions of clauses (a) or (b) or (c) or (d) or (e) of section 5, as the case may be, and clause (a) of section 6 of the Act, by the owner or in-charge of the consignment together with penalty, if any, the cost incurred in the process of detention, storage and the like charges, within forty-eight hours of the detention:

Provided that the said authority may allow on request in writing made by the owner or in-charge of the consignment, further extension of time not exceeding twenty four hours, for making payment of cess, penalty, if any and the cost referred to in this rule:

Provided further that in the event of failure on the part of the owner or in-charge of the goods within the time stipulated in this rule, the detained goods shall be sold in public auction by issuing a prior public notice of not less than seven days, specifying therein the details of the goods, value, place and time of auction. A copy of such notice shall also be served to the owner or in-charge of the goods:

Provided also that the intending bidders shall deposit, as refundable in the event when becoming unsuccessful bidder, earnest money of a sum equal to fifteen percent of the estimated value of the detained goods. The successful bidder shall deposit an additional earnest money equal to twenty percent the value of the goods auctioned immediately on the fall of the hammer, and the authority conducting the auction shall issue an acknowledgement receipt of such earnest money. The auctioned goods shall be allowed to be taken possession of by the auction purchaser immediately on payment of sale value in full. Failure on the part of the auction purchaser to pay the sale value within three days of auction, earnest money deposited by him shall be forfeited to the Government, and the goods shall be resold by auction.

(4) Notwithstanding anything contained in second proviso to sub-rule (3) of this rule, if in the opinion of the said authority who detained the goods the expense of keeping them in custody are likely to be high or for any other valid reason the goods cannot be kept in custody, he shall sell such goods or dispose them of duly recording the reasons thereof in writing.

(5) Where the detained goods are sold or otherwise disposed of under the preceding sub-rules, the owner thereof shall be liable to pay the expenses and incidental charges incurred in detaining them off. The sale proceeds of the goods shall be deposited in the Government treasury. Surplus of the proceeds, if any, after deducting therefrom the expenses and other incidental charges incurred in detaining and disposing of the goods shall, on application be refunded to the lawful owner of the goods.

(6) The declarations made in the Check posts, in Way bill Form 25 marked (IM), prescribed under sub-rule (1) of rule 69 of the Sikkim Value Added Tax Rules, 2005 or in any other Form in use for the time being for making declarations in the Check posts, shall be deemed to be the declarations made under these rules.

Payment/collection of cess at the Check Posts on account of goods

21. (1)(a) Notwithstanding anything contained in rules 6 and 7, but subject to rule 22 of these rules, every individual referred to in clause (b) of section 5 of the Act, or any person other than registered dealer who imports

liable for cess from individuals, and entry of vehicles etc.

into the State goods or materials specified in Schedule II to the Act, from outside the State shall, as per provisions of clause (b) of section 5 of the Act itself, pay cess/produce proof of payment thereof at the rates as specified in clause (a) of sub-section (1) of section 6 of the Act at the Check Post and to the authorities referred to in rule 20 of these rules.

(b) Every owner or driver or in-charge, as the case may be, of the vehicle entering into the State of Sikkim shall pay cess/produce proof of payment thereof at the rates as specified in the notification issued under clause (d) of section 5 of the Act at the Check Post and to the authorities referred to in rule 20 of these rules.

(2)(a) The authorities referred to in clauses (a) and (b) of sub-rule (1) of this rule shall be responsible for ensuring payment/collection to the credit of the Government Treasury under appropriate Head of Account of cess referred to in the said clauses, sub-rule and the rule.

(b) The said authorities on duty shall grant receipt to the cess payer against payment/challans or documents of proof of payment and a copy thereof is retained in the record.

(3) The said authorities shall maintain registers and accounts showing details of the payments/collection/deposition into the appropriate Head of Account of cess referred to in this rule, and also keep in record such documents as are relevant and necessary.

Payment of cess by the Central and State Government departments, Public Sector Undertakings etc.

22. (1). Notwithstanding anything contained in rules 6, 7 and rule 21 of these rules, any department of the Central or State Governments, or department of the Government of other States situated in the State of Sikkim, or local body, or any authority or corporation, or company whether established by or under any statute or not, or Public Sector Undertakings, not being a registered dealer under the Act shall pay cess as per clause (a) of section 5 of the Act on the goods or materials specified in Schedule II to the Act, imported from outside the State for whatsoever purpose, at the rates specified in clause (a) of sub-section (1) of section 6 of the Act.

(2). The Central or State Government departments including departments of the Government of other States, or the authorities, or the organizations referred to in sub-rule (1) of this rule shall deposit the payable cess into the Bank through challans prescribed under the financial rules of the State Government within fifteen days from the date of delivery taken of such imported goods or materials and a copy of receipted challan shall be produced before the prescribed authority within seven days from the date of payment made into the Bank alongwith a statement showing the details of the purchases, taxable value, invoice and particulars connected to the goods or materials imported:

Provided that the departments of the State Government may opt to make payment through book transfer entry as per the financial rules of the State Government and furnish a copy of the documents of such transfer entry/book adjustment with a statement showing the details of the purchases, taxable value, invoice and particulars connected to the goods or materials imported, within fifteen days from the date of payment made.

Service of notices

23. (1) Notices under the provisions of the Act or these rules may be served by any of the following methods, namely-

(a) personally upon the addressee, if present, or

(b) by delivering or tendering to the addressee or any adult member of his family residing with him/her or to his /her manager, or

(c) by messenger including courier, or

(d) by registered post:

Provided that if upon an attempt having been made to serve any such notice by any of the above mentioned methods the authority under whose order the notice was issued is satisfied that the addressee is avoiding service or that for any other reason the notice cannot be served by any of the above mentioned methods, the said authority may, after recording his reasons for doing so, cause such notice to be served by affixing a copy thereof in some conspicuous place in his office and also on some

conspicuous part of addressee's office or of the building in which his office is located or where he habitually resides, or upon some conspicuous part of office or residence last notified by him and such service shall be deemed to have been made on the addressee personally.

(2) When a notice is sent by registered post, it shall be deemed to have been received by the addressee at the expiry of the period which is normally taken by a registered letter in the ordinary course of postal business unless the contrary is proved.

Punishment for breach of rules

24. Any person contravening any provision of these rules shall be punishable with fine not exceeding rupees twenty-five thousand and when the offence is continuing one, with a daily fine not exceeding rupees five hundred during the continuance of the offence.

PRESCRIBED FORMS

SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS RULES 2007
FORM I
([see rule 6 (1)]

Application for Registration under section 8 of the Sikkim Ecology Fund and Environment Cess Act, 2005.

To

The---------- Commissioner (Cess)

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1. I,.....s/o,d/o,w/o....., of.....(address) being the dealer/ on behalf of the dealer, carrying on the business under the name and style .....,head office of which is situated at....., hereby apply for a certificate of registration under the Sikkim Ecology Fund and Environment Cess Act, 2005.
   The details of the business are as under:-

2. Trade License No. of the business and date of issue...../
   Last renewed on.....

3. VAT/Sales Tax Registration No. and date of issue...../
   Last renewed on.....

4. Excise License No. of the business and date of issue, if any...../
   Last renewed on.....

5. Industrial Registration No. and date of issue, if any...../
   Last renewed on .....

6. CST Registration No and date of issue, if any.....

7. Date of commencement of business/production.....

8. Particulars of items dealing in/manufacturing:

9. i)Location of factory (in case of manufacturers).....

ii)Location of warehouse ,if any.....

iii)Additional places of business, if any.....

iv) Location of godowns, if any.....

v) Name & specimen signature of authorized person:
(name).....

(specimen signature).....

VERIFICATION

The above statements are true to the best of my knowledge and belief.

Name of the dealer in full.....

Signature.....

Status.....

Date.....

Strike out portion or paragraph whichever is not applicable.

OFFICE OF THE COMMISSIONER OF CESS
INCOME AND COMMERCIAL TAX DIVISION
FINANCE, REVENUE AND EXPENDITURE DEPARTMENT
GOVERNMENT OF SIKKIM

[see rule 6 (4) of the Sikkim Ecology Fund and Environment Cess Rules, 2007 and section 8 of the Sikkim Ecology Fund and Environment Cess Act, 2005].

FORM II

CERTIFICATE OF REGISTRATION

No..... Code .....

This is to certify that the business under the name and style of .....whose place of business is situated at....., has been registered as a dealer under the Sikkim Ecology Fund and Environment Cess Act, 2005. The business consists of purchase and sale of.....

*manufacturing/processing/assembling and sale of (names of commodities).....

* importing and sale of (names of commodities) .....

*securing by purchase, supplies of (names of the commodities) .....,from places within Sikkim.

Name of owner/proprietor/manager/director/partners of the firm/company, as the case may be.....

The dealer's year runs from the .....day of.....to the .....day of.....

The dealer has additional places of business in Sikkim at:

(1)
(2)
(3)

The dealer has a factory at.....

The dealer keeps warehouses/godowns at .....

(1)
(2)

Official Seal

Signature----------
(Registering Authority)
Seal

Date.....

SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS RULES, 2007

FORM III

[see rule 7(1)]

(QUARTERLY RETURNS)

Returns of Environment Cess payable for the quarter ending.....

Name of the dealer.....

Address of the dealer.....

Cess Registration Certificate No & date.....

(in rupees)

A.	Total value of purchases during the quarter/period in respect of items listed in Schedule II (relevant documents enclosed).	
B.	Total turnover of all sales/supplies made by the dealer during the quarter/period in respect of items listed in Schedule II (relevant documents enclosed).	
C.	Deduction claims on account of goods or services already subjected to cess, if any (relevant documents enclosed).	
D.	Net cessable turnover (B-C)	
E.	Calculation of cess payable on the net taxable turnover:	

	Taxable turnover	Tax Payable
Cess @ --------%		
Cess@ --------%		
Total		

F.	Details of Cess paid:	
	(i) Remitted in to the bank as per challan attached (name of the bank, chalan no. and its date):	
	(ii) Deducted at source on supplies made to the Government departments/companies/local bodies etc. (challan no./date or deduction certificate to be attached):	
	(ii) Adjustment of refund, if any, (supporting documents to be enclosed)	
	Total	
G.	**Net Cess payable (E-F)**	

Signature.....

Status.....

Verification

I hereby declare that the statements made above and the particulars furnished in the enclosures to this return are true and correct to the best of my knowledge and belief.

Place..... Signature.....

Date..... Status.....

Seal & Signature of the receiving authority/authorized official.....

Date.....

SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS RULES, 2007

FORM III A

[see rule 7(4) (b)]

QUARTERLY STATEMENT OF COMPOSITE CESS

Year.....

Quarterly Statement for the quarter ending.....

Name of the dealer.....

Name of firm/company.....

Address.....

Registration No.....

Total value of purchases during the quarter: (in rupees)

Month	Value of purchases of goods liable for cess
Total	

Total sales turnover during the quarter: (in rupees)

Month	Turnover of sales/supplies of goods liable for cess
Total	

Amount of composite cess paid for the quarter (in rupees).....

.....

Challan No/BR No.....Date.....(copy to be enclosed).

VERIFICATION

I hereby state and declare on the solemn affirmation that the statements made above and the particulars furnished in the enclosures to this return are true and correct to the best of my knowledge and belief.

Place.....
Date.....

Signature.....
Status.....

Signature of the receiving authority/authorized official.....

Date.....

Seal

OFFICE OF THE COMMISSIONER OF CESS
INCOME AND COMMERCIAL TAX DIVISION
FINANCE DEPARTMENT

SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS RULES, 2007
FORM IV
(See rule 8)

NOTICE

Notice of hearing under sub-section (4) of section 8, sub section (3) of section 9, clause (a) of sub-section (2) of section 10, sub-section (3) of section 10, sub-section (4) of section 10 of Sikkim Ecology Fund and Environment Cess Act, 2005.

No.....

To

..... Date.....

.....

.....

(a) Whereas you have failed to furnish any return or valid return for the period mentioned below within the specified period/the date extended under section 9(3), you are hereby given an opportunity to show cause at the following place, date and time, why an order imposing a penalty on you should not be made under sub-section (3) of section 9 of the Act.

(b) Whereas I am not satisfied, without requiring your presence or production of accounts and other evidence by you, that the returns furnished by you for the period mentioned below are correct and complete, I hereby require you to attend in person or through an authorized representative or to produce/cause to be produced accounts and other evidence on which you may rely in support of such returns, at the following place, date and time according to the provisions of clause (a) of sub-section (2) of Section10 of the Act.

(c) Whereas you have not furnished the returns for the period mentioned below within the prescribed period/extended date, you are hereby given an opportunity of being heard at the following place, date and time according to the provisions of sub-section (3) of Section10 of the Act.

(d) Whereas upon information which has come to my possession, I am satisfied that reasonable grounds exist to believe that you are liable to pay cess under the Act, for the period mentioned below but have nevertheless willfully failed to apply for registration under section 8 of the Act, you are hereby directed under sub-section (4) of Section 8 of the Act to apply for and get yourself registered within fifteen days of the service of this notice, failing which you will be liable for penalty specified in that section.

(e) Whereas having applied for registration under section 8 you have failed to furnish the particulars and information required for the purpose of the said section:

You are hereby given an opportunity of being heard at the following place, date and time according to the provisions of sub-section (4) of Section 10 of the Act to show why a penalty under the said section should not be imposed.

Period under reference.....

Authority before whom to appear.....

Place.....

Date.....

Time.....

Evidence required to be produced:

1. Accounts registers, documents and other evidence maintained by the dealer.
2. Other books of accounts, registers and documents connected therewith, information and documents relating to financial transactions, the profits derived from such transactions and the stocks of goods produced, raised, processed, manufactured, brought, sold or delivered.
3. Statement classifying sales in different categories, if such classification has not been made in the Sales Register.
4. Duplicates of cash memoranda, bills, delivery notes, invoices or in support of all sales and purchases.
5. Proof of deductions
6. Any other accounts, registers, documents or other evidences which you may wish to produce.
7. Evidences or papers as detailed below:-

Place..... Signature.....

Date..... Designation.....

Note: Failure on the part of the dealer to comply with the terms of this notice entails ex-parte orders without any further hearing to the dealer.

OFFICE OF THE COMMISSIONER OF CESS
INCOME AND COMMERCIAL TAX DIVISION
FINANCE DEPARTMENT

SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS RULES, 2007
FORM V
(see rule 10)
NOTICE OF DEMAND

No..... Dated.....

To
..... (Name)

.....(Address)

.....

1. You are hereby informed that your turnover subject to cess, for the year/quarter/period.....under the Sikkim Ecology Fund and Environment Cess Act 2005, has been assessed/ re-assessed and passed an order no.....dated.....by the undersigned/ by .....
A penalty has been imposed under section..... of the said Act by the same order (or order no. .....dated.....).
Interest under section 11(3) has been charged upon the amount or cess and/ or penalty due from you for the said year/quarter/period. The details of the amount are as under:-

		In rupees
A.	Cess-able turnover determined	
B.	Cess assessed on said turnover	
C.	Penalty levied under section.....	
D.	Interest charged on Rs..... for the period.....	
	Total (B+C+D)	
E.	Amount already paid	
F.	Net amount due	
G.	Excess paid	

2. You are hereby directed to pay the aforesaid sum of Rs.....(rupees.....) into the State Bank of Sikkim within .....days of the service of the notice and produce to the undersigned the receipted challan within seven days of the deposit , failing which you would render yourself liable for any or all of the following consequences-

(i) interest at eighteen percent per annum compounded on a quarterly basis under sub-section (3) of Section11 of the Act from the date on which the payment is due in accordance with this notice till the date when the payment is actually made.

(ii) any amount of cess, penalty or interest due from you and which remains unpaid after the said date, shall be recoverable by a Magistrate of First Class as if it were a fine imposed by him.

(iii) you will be liable for prosecution in a competent court for an offence under clause (e) subsection (1) of section 20.

If you are dissatisfied with any order passed by me which has resulted in this demand for payment you may file an appeal if it lies under section 18(1) of the Act, before the .....

3. A payment challan is enclosed for your use for making payment of due cess.

4. Subject to rule 12(1) and (2), application may be made for refund/adjustment of excess cess paid.

Date:

.....(Signature)

Seal

..... (Designation)

OFFICE OF THE COMMISSIONER OF CESS
INCOME AND COMMERCIAL TAX DIVISION
FINANCE DEPARTMENT

SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS RULES, 2007
FORM VI
(see rule 11)

CHALLAN
[Acceptable only in the State Bank of Sikkim in quadruplicate]

ORIGINAL/DUPLICATE/TRIPLICATE/QUADRUPLICATE

No.....

Major Head:.....

Sub-head: .....

Name and address of the dealer.....

Name and style of the firm/company.....

Address.....

Registration Certificate No. and date.....

Period to which the payment relates.....

(a)	Cess amount according to the returns	Rs.
(b)	Cess assessed	Rs.
(c)	Penalty	Rs.
(d)	Interest	Rs
(e)	Composition amount	Rs.
(f)	Fees for.....	Rs.
(g)	Other items (to be specified)	Rs.
	Total	**Rs.**
(in words) Rupees-		

Date..... **Signature of the dealer.....**

(For use in the Bank)

Received payment of Rs.....(rupees.....)
and credited to the accounts of the Government of Sikkim under Major Head.....Sub-head.....

Signature of the Bank Official.....

Bank Seal

Date.....

SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS RULES, 2007

FORM VII

(see sub- rule (1) of rule 12)

Application for refund of cess paid in excess or appeal or revision fee when appeal or revision is upheld.

To

.....

.....

.....

I the undersigned, on behalf of my firm/company, do hereby apply for a refund of Rs.....(rupees:.....)
being the excess amount paid on account of:
(i) cess (ii) penalty (iii) interest (iv) appeal fee (v) revision fee (iv) other fee, namely,-
.....
The relevant particulars are given below;-

1. Name of the firm/company..... .....
2. Name of dealer.....
3. Address.....
4. Registration No. and date.....
5. Period for which amount was paid.....
6. Assessment/Appeallate/Revisional/other/ Order No. & date.....
7. Challan no./BR no. & date by which payment was made.....
8. Reasons, if any, for which excess payment is made.....

I hereby further declare that what is stated herein is true to the best of my knowledge and belief and no other application against the above mentioned payment has been made by me or in my behalf.

Place.....
Date.....

Signature.....
Name.....
Status.....

SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS RULES, 2007

FORM VII A

Refund Payment Order/Certificate

[see rule 12 (1)]

No..... Dated.....

Whereas, on scrutiny of the records of payments/after assessment/reassessment of cess is made in respect of....., who is the dealer holding Certificate of Registration No.....Dated....., an excess-

(a) cess amounting to Rs(in figures)..... rupees (in words).....,

(b) penalty amounting to Rs(in, figures)..... rupees (in words).....,

(c) excess interest amounting to Rs (in figures)..... ..... rupees (in words).....,

(d) excess fees amounting to Rs (in figures)..... rupees (in words).....,

has been found to have paid by him during the period.....

And whereas the said excess cess/penalty/interest/fees has been deposited into the Government Treasury under challan No(s).....dated.....

Now, therefore, it is hereby certified that an amount of Rs (in figures)....., rupees (in words) ..... in total is refundable to said dealer and as such payment thereof may be made to him.

(Address of the authority to whom Refund Payment Order/Certificate is referred):

To

The.....

.....

.....

SEAL Signature.....

Dated..... Designation.....

Copy to: the concerned dealer.

SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS RULES, 2007

FORM VII B

Refund Adjustment Order/Certificate

[see rule 12 (1)]

No..... Dated.....

Whereas, on scrutiny of the records of payments/after assessment/reassessment of cess is made in respect of....., who is the dealer holding Certificate of Registration No.....Dated....., an excess-

(e) cess amounting to Rs(in figures)..... rupees (in words).....,

(f) penalty amounting to Rs(in, figures)..... rupees (in words).....,

(g) excess interest amounting to Rs (in figures)..... ..... rupees (in words).....,

(h) excess fees amounting to Rs (in figures)..... rupees (in words).....,

has been found to have paid by him during the period.....

And whereas the said excess cess/penalty/interest/fees has been deposited into the Government Treasury under challan No(s).....dated.....

Now, therefore, it is hereby certified that an amount of Rs (in figures)....., rupees (in words) ..... in total has been paid in excess by the said dealer and as such the said amount be adjusted against the amount of Rs(in figures).....(in words)..... .....recoverable from him on account of.....for the period.....

Payment of balance of Rs (in figures).....(in words)..... .....left after the adjustment may be made to the said dealer.

(Address of the authority to whom Refund Adjustment Order/Certificate is referred):

To

The.....

.....

.....

SEAL Signature

Dated Designation

Copy to: the concerned dealer.

SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS RULES, 2007
FORM VIII
(see rule 14)

Memorandum of appeal under sub- section (2) of Section 18 of the Sikkim Ecology Fund and Environment Cess Act, 2005

To

The .....(Cess).
Appellate Authority
Gangtok/.....

I(name)..... son/daughter/wife of(name).....(address)..... hereby prefer appeal against the order, dated.....passed by.....,and furnish the following particulars for the purpose:

1. Name and address of the dealer:

2. Name and style of business:

3. Status of dealer:

4. Status of business (mention here individual, undivided Hindu family, firm, company, corporation, association, society, club, local authority , Government Department etc., as the case may be).....

5. Registration No:

6. Location of the place of business:

7. Address to which the communication should ordinarily be dispatched:

8. Period to which appeal relates:

9. Date of service of demand notice:

10. Details of turnover and cess assessed:

		As determined by the assessing authority	As admitted by the appellant
		1	2
(a)	Total Turnover		
(b)	Turnover subject to cess		
(i)	Cess @---------%		
(ii)	Cess@---------%		
	Total Cessable turnover		
(c)	Total amount of cess assessed or reassessed		
(d)	Section under which assessment or reassessment made		

11. Amount of penalty , if any , imposed and section under which imposed:

12. Amount of interest, if any, charged:

13. Details of payment made:

Challan number	Date	Amount
1	2	3

14. Amount in dispute:-
    (a) Cess:
    (b) Penalty:
    (c) Interest:
    (d) Total:
15. List of papers and documents filed:-
    (a) Challan no.....dated..... for Rs..... showing deposit of fee payable on this application under rule 17 on this memorandum of appeal
    (b) Challan no.....dated.....for Rs..... showing deposit of the amount specified in clause (a) of sub- section (2) of Section 18 of the Act.
    (c) Certified copy of the order appealed against, together with a notice of demand.
    (d) One extra copy of this memorandum.
    (e) .....
    (f) .....
    (g) .....

16. Statements of the facts of the case and the relief sought:-

(a) The facts of the case are as follows;-

(b) The points at issue area as follows:-

(c) Grounds of appeal are as follows:-

(d) Relief sought is as follows :-

VERIFICATION

I do hereby declare that the above particulars and statements are correct and complete to the best of my knowledge and belief.

Place..... Signature.....
Date.....
Status.....

(for use of the office of the Appellate Authority)

Appeal No..... of (year).....
Period to which the appeal relates.....
Date of receipt by appellate authority.....
Initial of appellate authority.....

ACKNOWLEDGEMENT

Received on.....from in r/o.....Memorandum of Appeal in Form VIII for the period....., together with/ without the papers and documents specified at item 15 of the Memorandum of Appeal.

Appeal number.....of (year).....

Signature.....
Designation.....

Note: The Memorandum shall be signed by the proprietor of the business, an individual, by the karta, if an undivided Hindu family, by an authorised partner, in case of a firm, by a managing director, managing agent, manager or principal executive officer, in case of a company or corporation; by the principal executive officer or officer-in-charge in the case of a society, club, association, department of Government or local authority.

SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS RULES, 2007

FORM IX

(see rule 15)

Application for revision of appellate order under the Sikkim Ecology Fund and Environment Cess Act, 2005

To

The.....(Cess)
Revisional Authority
Gangtok/

I (name)..... son/daughter/wife of(name).....(address)..... hereby prefer this application for revision of order, dated.....passed by .....,and furnish the following particulars for the purpose:

1. Name and address of the dealer:

2. Name and style of business:

3. Status of dealer:

4. Status of business:(mention whether sole proprietor, partnership undivided Hindu family, firm, company, corporation, association, society, club, local authority, Government Department etc., as the case may be).....

5. Registration No:

6. Location of the place of business:

7. Address to which the communication should ordinarily be dispatched:

8. Period to which revision application relates:

9. Date of service of notice:

10. Details of turnover and cess assessed:

		As determined by the assessing authority	As determined in appeal	As admitted by the applicant
		1	2	3
(a)	Total Turnover			
(b)	Turnover subject to cess			
(i)	Cess @ %			
(ii)	Cess@ %			
	Total Cessable turnover			
(c)	Total amount of cess assessed or reassessed			
(d)	Section under which assessment or reassessment made			

11. Amount of penalty , if any , imposed and section under which imposed:

12. Amount of interest, if any, charged:

13. Details of payment made:

Challan number	Date	Amount
1	2	3

14. Amount in dispute:-

a. Cess:
b. Penalty:
c. Interest:
d. Total:

15. List of papers and documents filed:-

(a)Challan, no.....dated..... for Rs.....
showing deposit of fee payable under rule 17 on this Revision Application.

(b) Certified copy of the appellate order against which this application has been preferred.

(c) One extra copy of this memorandum.

(d).....

(e).....

(f).....

16. Statements of the facts of the case and relief sought:-

a. The facts of the case are as follows;-

b. The points at issue are as follows:-

c. Grounds of appeal are as follows:-

d. Relief sought is as follows :-

VERIFICATION

I do hereby declare that the above particulars and statements are correct and complete to the best of my knowledge and belief.

Place..... Signature.....
Date.....

Status.....

(for use in the office of the Revisional Authority)

Revision Application No.....of (year).....
Period to which the application relates.....
Date of receipt of the application.....
Initial of Revisional Authority.....

ACKNOWLEDGEMENT

Received on.....from.....Revision Application in Form IX for the period....., together with/ without the papers and documents specified at item 15 of the application. Revision Application No.....of (year)..... .....

Signature.....

Seal Designation.....

The memorandum shall be signed by the proprietor of the business, an individual, by the karta, if an undivided Hindu family, by an authorised partner, in case of a firm, by a managing director, managing agent, manager or principal executive officer, in case of a company or corporation, by the principal executive officer or officer-in-charge in the case of a society, club, association, department of Government or local authority.

BY ORDER

T. T. DORJI, IAS
ADDITIONAL CHIEF SECRETARY-CUM-COMMISSIONER OF CESS
GOVERNMENT OF SIKKIM.